



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

September 28, 2004

Ref: 8ENF-UFO

CERTIFIED MAIL 7003-2260-0001-7778-9227
RETURN RECEIPT REQUESTED

John D. Chasel, Registered Agent
Water Disposal, Inc.
2285 Lucky John Drive
Park City, Utah 84060

Re: UNDERGROUND INJECTION
CONTROL (UIC)
Proposed Administrative Order and
Opportunity to Request a Hearing
(Complaint)

Dear Mr. Chasel:

The enclosed document is a Proposed Administrative Order and Opportunity to Request a Hearing (Complaint) ("Order") for violations of the Safe Drinking Water Act ("SDWA"). Please have Water Disposal, Inc. ("Water Disposal") carefully read the Order soon, since it describes Water Disposal's rights and responsibilities in this matter as well as EPA's authority, the factual basis of the violations, and the background for the proposed penalties. Also enclosed is a copy of the Rules of Practice that govern these proceedings, the required Public Notice associated with this Order and, in case Water Disposal meets the criteria, an information sheet about the Small Business Regulatory Fairness Act.

Water Disposal is required to take action within 30 calendar days of your receipt of this Order to avoid the possibility of having a default judgment entered against Water Disposal that could impose the penalty amount in the Order.

Whether or not Water Disposal requests a hearing, we encourage an informal conference with EPA concerning the alleged violations in an effort to negotiate a settlement. Water Disposal may wish to appear at an informal conference and/or be represented by legal counsel. To arrange for such a conference, Water Disposal should contact Jim Eppers, Enforcement Attorney, Legal Enforcement Program, at the number provided below. Request for such a conference does not extend the 30 calendar day period during which a request for hearing must be submitted.



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Public Notice of EPA's Order and the opportunity to provide written comments on the Order is being provided pursuant to section 1423 (c)(3)(B) of the SDWA, 42 U.S.C. § 300h-2(c)(3)(B). Should a hearing be held, any person who comments on the Order has a right to participate in the hearing.

If Water Disposal has technical questions relating to this matter, the person most knowledgeable on my staff is Nathan Wiser, UIC Enforcement Team, Technical Enforcement Program, at (303) 312-6211. For all legal questions, the person most knowledgeable on my staff is Jim Eppers at (303) 312-6893. Mr. Wiser and Mr. Eppers can also be reached at the following addresses:

Nathan Wiser (Mail Code 8ENF-UFO)
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466, or

Jim Eppers (Mail Code 8ENF-L)
Enforcement Attorney
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466

We urge Water Disposal's prompt attention to this matter.

Sincerely,

Michael T. Risner for/

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures:

Proposed Administrative Order
and Opportunity to Request Hearing
40 C.F.R. Part 22
Public Notice
U.S. EPA Small Business Resources Fact Sheet

cc: Maxine Natchees, Chairperson (with all enclosures)
Uintah & Ouray Business Committee

Elaine Willie, Environmental Coordinator (with all enclosures)
Ute Indian Tribe

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

IN THE MATTER OF)	Docket No. SDWA-08-2004-0056
)	
Water Disposal, Inc.)	PROPOSED ADMINISTRATIVE
P.O. Box 85)	ORDER AND OPPORTUNITY
Roosevelt, Utah 84066,)	TO REQUEST A HEARING
)	(COMPLAINT)
Respondent.)	
)	
Located on the Uintah & Ouray Indian)	
Reservation, Utah)	

STATUTORY AUTHORITY

1. This is a civil administrative action issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by section 1423(c) of the Safe Drinking Water Act ("Act"), 42 U.S.C. § 300h-2(c). The Administrator has properly delegated this authority to the undersigned EPA official. This proceeding is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits ("Consolidated Rules") set forth at 40 C.F.R. part 22, a copy of which is enclosed.

GENERAL ALLEGATIONS

2. All general allegations apply to and are incorporated in each of the findings set forth in this Proposed Administrative Order and Opportunity to Request a Hearing (Complaint)

("Order"). Attachment A, which further describes the violations alleged in this Order, is incorporated herein.

3. Water Disposal, Inc., at all times pertinent hereto, is a corporation organized under the laws of the State of Utah authorized to do business in the State of Utah.
4. Section 1421 of the Act, 42 U.S.C. § 300h, authorizes EPA to promulgate regulations for underground injection control ("UIC") programs setting forth minimum requirements to prevent underground injection which endangers regulated drinking water sources. EPA has promulgated such regulations at 40 C.F.R. parts 124, 144, 146, 147, and 148.
5. Pursuant to section 1422(e) of the Act, 42 U.S.C. § 300h-1(e), and 40 C.F.R. § 147.2253, EPA administers the UIC Program for all Class II wells on the Uintah & Ouray Reservation Indian Lands in the State of Utah as of November 25, 1988.
6. Pursuant to section 1423(c)(2) of the Act, 42 U.S.C. § 300h-2(c)(2), the Administrator may issue to any person subject to and in violation of any requirement of any applicable UIC program a civil penalty of not more than \$5,500 for each day of violation for any violation occurring prior to March 15, 2004 and not more than \$6,500 for each day of violation for any violation occurring on or after March 15, 2004, up to a maximum administrative penalty of \$157,500, or requiring compliance with such regulation, or both.
7. Water Disposal, Inc. ("Respondent") is a "person" within the meaning of SDWA § 1401(12), 42 U.S.C. § 300f(12).

8. Class II injection wells defined at 40 C.F.R. § 144.3 and classified at 40 C.F.R. § 144.6(b) and 146.5(b) are wells used to emplace fluids underground (1) which have been brought to the surface in connection with oil and gas production (known as salt water disposal), or (2) for the purpose of enhancing oil recovery (known as enhanced recovery).
9. The applicable regulations for Class II wells are set forth at 40 C.F.R. parts 144 through 147.
10. Respondent operates the following Class II well (Subject Well), located on the Uintah & Ouray Indian Reservation within the State of Utah, that is subject to this Order:

Helen Larsen #2-05A1, EPA Permit #UT20538-02701, Effective August 1, 1991
Salt Water Disposal Well
T1S, R1W, Section 5, SE/4 of the NW/4
Duchesne County, Utah.

FINDINGS

A. Excess Injection Pressure

11. The UIC regulations at Title 40 of the Code of Federal Regulations ("40 C.F.R.") §146.23(a)(1) and the UIC Permit No. UT20538-02701 ("UIC Permit") at part II(C)(4)(a) limit injection pressure to a value calculated to ensure that the pressure induced by injection will not cause fluid migration into an underground source of drinking water ("USDW"). In this case, the UIC Permit, which became effective August 1, 1991, limits the pressure to 2470 pounds per square inch (psi) in order to prevent propagation of existing or initiation of new fractures in the geologic injection zone, which could

otherwise create pathways for fluid migration out of the designated injection zone into overlying USDWs.

12. On June 18, 2003, EPA inspectors observed the injection pressure at the wellhead to be 2650 psi, as measured using a recently calibrated pressure gauge with a pressure measurement range of 0 to 3000 psi.
13. On October 24, 2001, EPA inspectors observed the injection pressure at the wellhead to be 2540 psi, as measured using a recently calibrated pressure gauge with a pressure measurement range of 0 to 3000 psi.
14. Failure to maintain the wellhead injection pressure at or below 2470 psi is a violation of the regulations at 40 C.F.R. §§ 146.23(a)(1) and EPA's UIC Permit.
15. During the times displayed in Attachment A, Respondent failed to comply with injection pressure limit found at part II(C)(4)(a) of the UIC Permit and therefore violated the Act.

B. Failure to Maintain Pressure Gauge

16. The UIC Permit at part (III)(E)(5) requires Respondent to maintain all wellhead equipment in good working order to assure that all UIC Permit conditions are being complied with. This includes the Respondent's pressure gauge on the well's injection tubing used to monitor the injection pressure at the wellhead.
17. On October 24, 2001, EPA inspectors, using EPA's recently calibrated pressure gauges, measured the injection pressure at the wellhead and found the injection pressure observed using EPA's gauge was higher than Respondent's pressure gauge by 330 psi.

18. EPA follows a pressure gauge maintenance procedure to ensure that its gauges display accurate values. The procedure includes annual purchase of new pressure gauges and visual observation of its pressure gauges to detect any sign the gauge no longer “zeros” when taken off a wellhead. If a gauge is either (1) greater than one year old, or (2) no longer “zeros” when taken off a wellhead, the gauge is discarded and a new one used.
19. During the times displayed in Attachment A, Respondent failed to comply with the requirement to properly maintain its pressure gauge and therefore violated the Act.

C. Failure to Submit Annual Fluid Samples

20. The UIC regulations at 40 C.F.R. § 146.23(b) require operators of all Class II wells to monitor the nature of the injected fluids at time intervals sufficiently frequent to yield data representative of their characteristics. The UIC Permit at parts II(D)(1)(a) and (4) require the Respondent to annually analyze a sample of the injected fluid and report the results of the analysis, containing, at a minimum, its pH, specific gravity, specific conductance, and total dissolved solids. This fluid analysis must be submitted by February 15th of the year following the reporting year.
21. Failure to report analysis of the injected fluids by February 15th of the year following each reporting year is a violation of the regulations at 40 C.F.R. §§ 146.23(b) and (c) and EPA’s UIC Permit.
22. During the times displayed in Attachment A, Respondent failed to submit a fluid analysis by February 15th of the year it was required, thus failing to comply with the annual fluid

analysis reporting requirement in the permit for the Subject Class II injection well and therefore violated the Act.

D. Failure to Conduct Standard Annulus Pressure Mechanical Integrity Test

23. The regulations at 40 CFR 146.23(b)(3) and the UIC permit at part II(C)(2)(b) require the Respondent to conduct a standard annulus pressure mechanical integrity test at least once every five years. The purpose of conducting the standard annulus pressure mechanical integrity test is to ensure that there are no significant leaks in the well's tubing, casing or packer.
24. Failure to conduct a standard annulus pressure mechanical integrity test at least every five years is a violation of the regulations at 40 CFR 146.23(b)(3) and the UIC permit at part II(C)(2)(b).
25. During the times displayed in Attachment A, Respondent failed to conduct a standard annulus pressure mechanical integrity test at least every five years and therefore violated the Act.

PROPOSED ORDER WITH ADMINISTRATIVE CIVIL PENALTY

26. Pursuant to section 1423(a) of the Act, 42 U.S.C. § 300h-2, and based on the foregoing findings, after taking into account: (1) Respondent's alleged violations are serious and a threat to human health and the environment; (2) Respondent gained an economic advantage over its competition by virtue of its late mechanical integrity test, fluid analysis violations, failure to comply with the maximum allowable injection pressure and thereby failure to alternatively dispose of a portion of its salt water; (3) EPA is unaware that

Respondent has a history of violations such as these alleged in the complaint; (4) EPA is unaware of good faith efforts by Respondent to comply with applicable UIC regulations; (5) EPA has no basis to believe that the proposed penalty is one which would have a severe economic impact on Respondent; and (6) such other matters as justice may require, **EPA HEREBY ORDERS:**

27. Respondent shall pay an administrative civil penalty (the "Penalty") in the amount of five thousand nine hundred ninety-six dollars (**\$5,996**) for the violations of the UIC Program regulations described above. Payment must be made by money order or certified check made payable to "Treasurer, United States of America" and mailed within 30 calendar days of Respondent's receipt of this Order to the following address:

EPA - Region 8
Regional Hearing Clerk
P.O. Box 360859
Pittsburgh, Pennsylvania 15251.

A copy of said check shall be mailed to the following address:

Jim Eppers (8ENF-L)
Enforcement Attorney
U.S. EPA - Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466.

28. Respondent shall, no later than 30 calendar days after the date of receipt of this Order, develop testing plans to ensure that its prior injection pressure exceedences did not cause fluid movement out of the designated injection zone. Such plans shall include use of

some combination of radioactive tracer surveys, temperature logs, or noise logs. The plans must include an interpretation by a knowledgeable analyst.

29. Respondent shall, no later than 30 calendar days after the date of receipt of this Order, develop compliance procedures to ensure its UIC Class II injection well remains in compliance with all applicable regulatory and permit requirements, and submit said compliance procedures to EPA in accordance with paragraph 30. The procedures must include, at a minimum, communication among different levels of Respondent's employees and contractors, communication with EPA, posting signs at the wellhead as a reminder of operating requirements, and a methodology for ensuring timely and complete testing and reporting, routine and otherwise. These plans must be submitted to EPA in advance of their implementation. Approval of these plans in no way stays the responsibility of Respondent to comply with all requirements in the UIC permit, any applicable UIC regulations, and the Act.

30. Please submit all reports and compliance procedures to:

Nathan Wiser (MC 8ENF-UFO)
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

31. Under section 1423(c)(3)(A) of the Act, 42 U.S.C. § 300h-2(c)(3)(A), Respondent may request, within 30 calendar days of receiving this Order, a hearing on this matter. Such request (also referred to as "Answer" and defined in 40 C.F.R. §22.15) must be made in

writing and must specify the factual and legal issues in dispute and the specific factual and legal grounds for Respondent's defense(s). At the hearing, Respondent may contest any material fact set forth herein and the propriety of the proposed penalty and/or compliance requirement described above. The procedures for a hearing, if one is requested, are set out in 40 C.F.R. part 22, Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination, or Suspension of Permits, Rule dated July 23, 1999 64 Federal Register 141, a copy of which is enclosed with this Order. If Respondent does not request a hearing, EPA may finalize this Order, thereby requiring compliance and assessing the full penalty proposed above.

32. Respondent must send any request for a hearing to:

Tina Artemis
Regional Hearing Clerk
U.S. EPA Region 8, 8RC
999 18th Street, Suite 300
Denver, Colorado 80202-2466.

33. Respondent may confer informally with EPA concerning the alleged violation or the amount of the proposed penalty regardless of whether Respondent requests a hearing. Respondent may be represented by counsel at the informal conference. If a settlement is reached, it will be formalized in a document entitled Consent Agreement and finalized by the issuance of a Final Order by the Regional Judicial Officer. If Respondent wishes to

confer informally with EPA, please contact Jim Eppers, Enforcement Attorney, at (303) 312-6893.

34. Respondent is advised that EPA is required to notify the public about this action, and that members of the public have a right under section 1423(c)(3)(B) of the Act, 42 U.S.C. § 300h-2(c)(3)(B), to comment on this matter. Those members of the public who comment will also have the right to present evidence and be heard at any hearing on this matter.
35. EPA will review any comments submitted on the Order and will thereafter determine whether to modify or withdraw the Order or whether to adjust the proposed penalty.

GENERAL PROVISIONS

36. This Order does not constitute a waiver, suspension, or modification of the requirements of EPA UIC permit UT20538-02701, or 40 C.F.R. parts 144, 146, 147, or any other applicable provision of the Act or the UIC regulations implementing the Act, which remain in full force and effect. Issuance of this Order is not an election by the EPA to forego any civil or any criminal action otherwise authorized under the Act.
37. The provisions of this Order shall apply to and be binding upon Respondent and its respective officers, directors, agents, successors or assigns.
38. Violation of the terms of this Order may subject Respondent to further enforcement action pursuant to section 1423(b) of the Act, 42 U.S.C. § 300h-2(b).

Issued this 28TH day of September, 2004.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8
Complainant.

Michael T. Risner for/
Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the attached PROPOSED ADMINISTRATIVE ORDER AND OPPORTUNITY TO REQUEST A HEARING (COMPLAINT) were hand-carried to the Regional Hearing Clerk, EPA Region 8, 999 18th Street, Denver, Colorado, and that a true copy of same was sent via Certified Mail, Return Receipt Requested, to:

John D. Chasel, Registered Agent for Water Disposal, Inc.
2285 Lucky John Drive
Park City, Utah 84060

9/28/04
Date

Judith McTernan
Judith McTernan

Case Name:	Water Disposal Inc.	Helen Larsen #2- 05A1 SWD
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Today's date: 10/08/2004

Operator	Type of Violation	Date Violation Began	Date Violation Ended	Violation duration in days	Violation duration in months	Duration factor (see penalty policy)
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Water Disposal Inc.	A. Excess Injection Pressure	06/18/2003	06/19/2003	1	0	0
Water Disposal Inc.	A. Excess Injection Pressure	10/24/2001	10/25/2001	1	0	0
Water Disposal Inc.	B. Fail to Maintain Gauge	10/24/2001	10/25/2001	1	0	0
Water Disposal Inc.	C. No fluid analysis	02/15/2003	05/19/2003	93	3	8
Water Disposal Inc.	D. Failure to conduct MIT	04/11/2003	12/26/2003	259	9	12

IF YOU WOULD LIKE COPIES OF THE OTHER ATTACHMENTS, PLEASE CONTACT THE REGIONAL HEARING CLERK.

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON SEPTEMBER 28, 2004.